IN THE MATTER OF THE PUBLIC ORDER EMERGENCY COMMISSION

INSTITUTIONAL REPORT OF THE CITY OF WINDSOR
Summary of Evidence and Timeline of Key Events

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I. Scope of Institutional Report

1. The Corporation of the City of Windsor ("**Windsor**" or the "**City**") has prepared this institutional report at the request of Commission counsel pursuant to Rule 51 of the Commission's Rules of Practice and Procedure. This report provides information on Windsor and Windsor's governance structure as it relates to emergency response.

2. This report additionally provides a summary of the City's response to the demonstrations in early 2022. A Timeline of key events from the City's perspective is provided at Appendix A.

II. Overview

3. Windsor is a city in southwestern Ontario with a population of approximately 229,600, located on the south shore of the Detroit River, across from Detroit, Michigan. Windsor is host to critical infrastructure including the Ambassador Bridge (the "**Bridge**"), a privately owned, international border crossing connecting Detroit and Windsor over the Detroit River. The Bridge enters Windsor's northwestern corner connecting to a municipal road, Huron Church Road, itself, a critical economic artery for the City.

4. The Bridge is, by far, Canada's busiest commercial crossing to the United States. Windsor's businesses, including in particular its automotive businesses, rely on just-in-time passage of goods across the Bridge. Windsor residents rely on the Bridge for work and personal transportation.

5. Commencing on February 7, 2022, demonstrators in solidarity with similar demonstrations in Ottawa obstructed access to the Bridge (the "**Blockade**"). The Blockade disrupted trade, harmed the automotive sector, and had a profound negative impact on the City and Windsor's communities, schools, residents, and businesses. Residents and businesses in Ward 2, in the City's West End, were particularly impacted by the disruption caused by the Blockade, including by efforts to safeguard access to the Bridge after the Blockade was cleared.

6. The City engaged in a coordinated effort with police, the private sector, and the Windsor community to respond to the Blockade. Ontario uses a bottom-up approach to emergency response; this means that municipalities and local authorities have primary responsibility for responding to and managing most emergencies, although they can request resources and assistance from the provincial government when needed. Windsor responds to emergencies in accordance with its Emergency

Response Plan.[1] In an emergency, a municipality like Windsor is required to exhaust its local resources before resorting to provincial or federal assistance.

7. Windsor Police Service ("**WPS**") led the response to the Blockade, which represented a public order and public safety issue. WPS had previously monitored "slow roll" protests along Huron Church Road in the weeks prior to the Blockade and had monitored the protests on the weekend of February 5-6, 2022 that eventually lead to the Blockade. WPS and the Windsor Police Services Board ("**WPS Board**") are separate and independent from the City and carry out responsibilities under the *Police Services Act*.

8. During the Blockade, the WPS response was managed from Windsor's Emergency Operations Centre ("**EOC**"), a physical location specifically designed and equipped for oversight of emergency response.[2]

9. WPS did not have sufficient personnel and hard assets (such as jersey barriers) to respond to the protest. As a result, WPS requested assistance from the provincial and federal governments on February 9. The WPS was supplemented by Ontario Provincial Police ("**OPP**") officers, as well as officers from other municipalities and the RCMP. The OPP's involvement give Windsor direct access to provincial resources such as those of the Ministry of Transportation ("**MTO**").

10. The City's role in the response to the Blockade included:

(a) holding regular meetings of the Community Control Group ("**CCG**");[3]

(b) providing, staffing, and equipping the EOC for police operations;

(c) logistical support for the WPS including sourcing jersey barriers, vehicles and other hard assets, and providing maps and other resources for situational awareness;

(d) communications;

(e) other administrative and back-office supports for WPS;

(f) seeking and obtaining an injunction with the private sector to restore access to the Bridge, and bringing an application to continue the injunction to ensure access was maintained;

(g) declaring a municipal emergency in relation to the Blockade on February 14, 2022; and

[1] As required by section 3, *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9.
[2] As required by section 4, *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9.
[3] Described below.

(h) supporting local businesses impacted by the Blockade.

11. Throughout the Blockade, Windsor personnel remained in contact with representatives of the provincial and federal governments. The Mayor's Chief of Staff, Andrew Teliszewsky, was in regular contact with Ministerial staff at the provincial and federal level. Mayor Drew Dilkens also maintained regular contact with Minister of Public Safety Marco Mendicino, the Premier, and the Deputy Premier. The majority of these interactions were directed towards determining what support could be available to Windsor and to keeping other levels of government up to date as to the situation in Windsor.

12. The Blockade had a profoundly negative impact on Windsor. The Blockade caused a loss of tens of millions of dollars in trade each day. It disrupted local businesses relying on cross-border shipping including, significantly, the automotive industry. Major auto manufacturers like Stellantis were forced to reduce capacity and production. The Blockade and the police response impacted local businesses due to the obstruction of roadways and people generally avoiding the area. The obstruction of Huron Church Road, an important arterial road in Windsor, impeded residents' ability to move through the City – a situation that persisted even after the Bridge re-opened as police continued to control traffic along Huron Church Road. The Blockade disrupted City services including transit and emergency response services.

13. The Blockade cost the City over five million dollars.

III. The City of Windsor

a) Location and Population

14. The City was created in 1935 from the amalgamation of a group of municipalities known as the Border Cities: Windsor, Sandwich, East Windsor, and Walkerville, and was incorporated under the *City of Windsor (Amalgamation) Act, 1935*.[4] Windsor has grown with the addition of lands in the 1960s and in 2003.[5] Currently, the City covers approximately 146.9 square kilometres.[6] As of the 2021 census, the City's population was approximately 229,600 people.[7]

[4] *City of Windsor (Amalgamation) Act, 1935*, 25 Geo. V, ch. 74.
[5] City of Windsor, "History of Windsor" (undated): WIN00002260.
[6] *City of Windsor Official Plan*, amended August 28, 2013, chapter 1: Introduction, online (pdf): Windsor – Official Plan: WIN00002231.
[7] Statistics Canada. 2022. (table). Census Profile. 2021 Census of Population. Statistics Canada Catalogue no. 98-316-X2021001. Ottawa. Released August 17, 2022, WIN00002270.

15. Windsor is Canada's southernmost city and is situated on the south shore of the Detroit River and Lake St. Clair. The City is located at the centre of the Great Lakes basin directly across from Detroit, Michigan.[8] As the chief port of entry between Canada and the United States, Windsor is an international gateway for people and commerce.[9] The City's location is depicted on the map below:

16. Windsor is geographically located within Essex County, but is administratively independent as a single-tier municipality.[10] The City's boundaries are depicted below: [11]

[8] Supplemental Affidavit of Jason Ward Reynar, February 11, 2022: WIN00000414.
[9] *City of Windsor Official Plan*, amended August 28, 2013, chapter 1: Introduction, online (pdf): Windsor – Official Plan WIN00002231.
[10] *Municipal Act, 2001,* S.O. c. 25, ss. 1,10.
[11] Captured from City of Windsor's 'My City' Interactive map (undated), online: <http://www.mappmycity.ca/Html5Viewer/Index.html?configBase=http://www.mappmycity.ca/Geocortex/Essentials/REST/sites/My_City/viewers/Viewer_HTML5_20/virtualdirectory/Resources/Config/Default>.

17. Windsor is the western terminus of Highway 401, Canada's busiest highway, which intersects with E.C. Row Expressway, a municipal highway running east-west through the City. Eight north-south municipal roads interchange with the expressway including Huron Church Road, a four lane road in the West end of the City.

b) Economy

18. Windsor's economy is primarily driven by manufacturing, tourism, education, and government services.[12]

19. Over 1,000 manufacturers are located in the Windsor-Essex region, responsible for $4.5 billion in annual GDP (30% of regional GDP); the largest sector by revenue in Windsor-Essex.[13] As of February 2022, the manufacturing sector in Windsor employed over 35,000 people.[14]

[12] City of Windsor, "Demographics and Lifestyle" (undated), WIN00002292.
[13] Supplemental Affidavit of Jason Ward Reynar, February 11, 2022 at para. 3: WIN00000414.
[14] Statistics Canada, Table 14-10-0379-01, "Employment by industry, three-month moving average, unadjusted for seasonality (x 1,000)", WIN00002265.

20. The automotive sector forms a core of Windsor's economy. Windsor is known as the automotive capital of Canada and is home to the headquarters of Stellantis Canada, two Ford Motor Company engine plants, and several automotive parts manufacturers. Aside from providing employment to many residents, the automotive sector also supports local charities and provides key sponsorship for local events and activities.[15]

IV. Critical Infrastructure in Windsor

21. Windsor is host to critical transportation infrastructure[16] including four Canada-U.S. border crossings (with a fifth scheduled to be completed in 2024):

(a) Ambassador Bridge;

(b) Windsor Detroit Tunnel;

(c) Detroit River Rail Tunnel (also known as the Michigan Central Railway Tunnel);

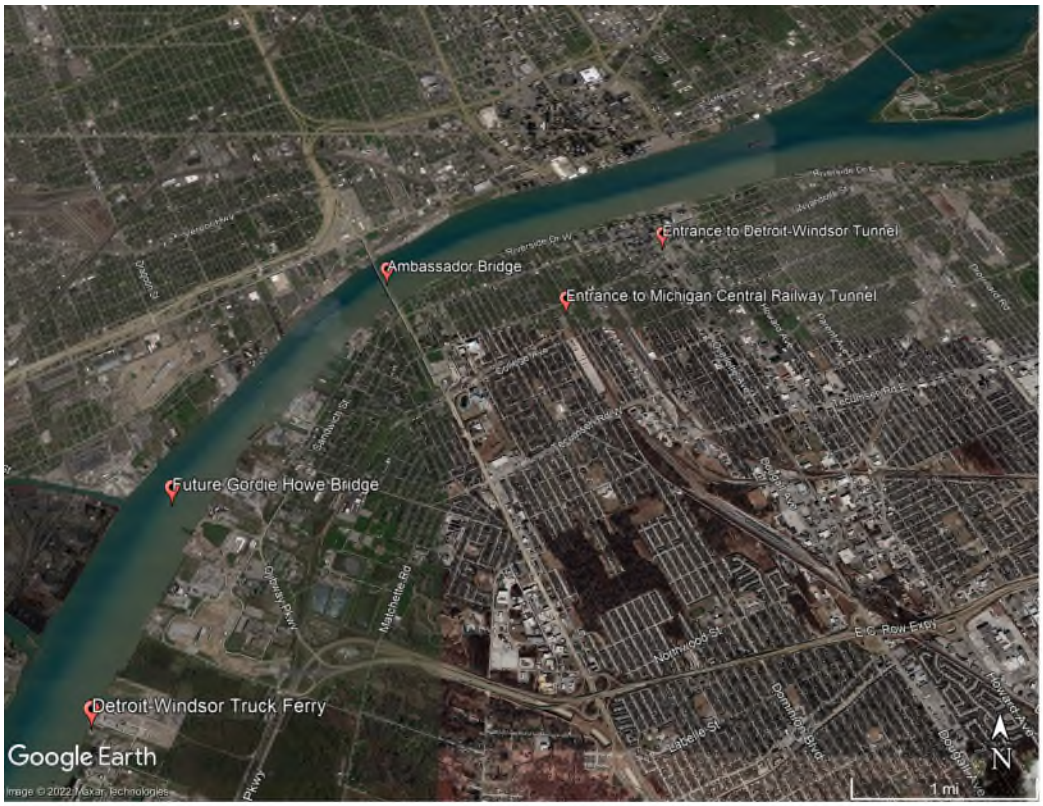
(d) Port of Windsor and Detroit-Windsor Truck Ferry; and

(e) Gordie Howe International Bridge (scheduled to be completed in 2024).

22. The Windsor-Detroit gateway is the busiest commercial land border crossing between Canada and the U.S., handling approximately one-third of all trade between the two countries, the bulk of which goes over the Bridge.[17]

23. These border crossings are depicted on the following map and are described below.[18] The Ambassador Bridge is described in greater detail, as it was the site of the Blockade in February 2022.

[15] Supplemental Affidavit of Jason Ward Reynar, February 11, 2022 at para 4: WIN00000414.
[16] Critical infrastructure are assets, systems and networks essential to the security, public health and safety, economic vitality and way of life of citizens. See Emergency Management Ontario's definition of critical infrastructure at Office of the Fire Marshall, "Ontario Critical Infrastructure Assurance Program Strategy", updated July 18, 2022: WIN00002271. See Canada's National Strategy for Critical Infrastructure definition of critical infrastructure at Public Safety Canada, "National Strategy for Critical Infrastructure", 2009, at p. 4: WIN00002229. See also O. Reg. 71/22: Critical Infrastructure and Highways, s. 1; SOR/2022-21: Federal Emergency Measures Regulations, s. 1.
[17] Transport Canada, "Transportation in Canada 2020: Statistical Addendum", September 25, 2020: WIN00002232.
[18] WIN00002248



24. These border crossings are within the jurisdiction of the Federal Government.[19] Specifically, the Ambassador Bridge, the Detroit-Windsor Tunnel, and the future Gordie Howe International Bridge are each an "international bridge or tunnel" within the meaning of section 2 the *International Bridges and Tunnels Act*. This definition also incorporates "the approaches and facilities related to the bridge or tunnel".[20] Section 5 of the *International Bridges and Tunnels Act* declares international bridges and tunnels to be "works for the general advantage of Canada."[21]

25. The western terminus of Highway 401 is also in Windsor, with direct connections across Windsor's borders to U.S. Interstate 75, the backbone of the north-south trade route through Michigan to Florida.

a) The Ambassador Bridge

26. Opened in 1929, the Ambassador Bridge spans the Detroit River between the Windsor, Ontario in Canada and Detroit, Michigan in the United States.

[19] See Constitution Act, 1982, s 35, being Schedule B to the Canada Act 1982 (UK), 1982, c 11; *International Bridges and Tunnels Act*, S.C. 2007, c. 1.
[20] *International Bridges and Tunnels Act*, S.C. 2007, c. 1, s. 2.
[21] *International Bridges and Tunnels Act*, S.C. 2007, c. 1, s. 2 and s. 5.

Ownership and Governance

27. The Bridge is one of the only privately owned US-Canada road crossings. The Canadian Transit Company ("**CTC**") owns the Canadian half of the Ambassador Bridge. The CTC was incorporated in 1921 by a special Act of Parliament; an *Act to Incorporate The Canadian Transit Company* ("***CTC Act***").[22] The Detroit International Bridge Company ("**DIBC**") owns the U.S. half of the Bridge, and operates the Bridge in cooperation with the CTC.[23] The CTC is a wholly-owned Canadian subsidiary of the DIBC.

28. The Minister of Transport, the Honourable Omar Alghabra, has authority over the construction, alteration, maintenance, operations and use, safety and security, and ownership of the Bridge pursuant to the *International Bridges and Tunnels Act*, S.C. 2007, c. 1 and Regulations SOR/2009-17.

29. The Canada Border Services Agency is responsible for border control, immigration enforcement, and customs services in Canada, including at the Bridge. In February 2022, the regional director of the Canada Border Services Agency was Christine Deroche.

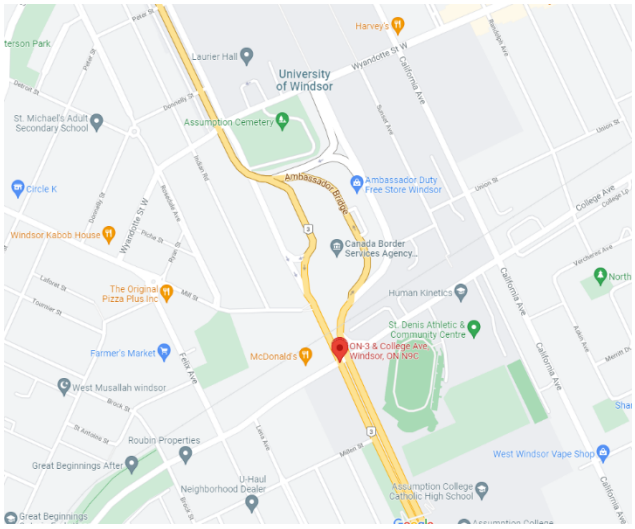
The Bridge and Surrounding Area

30. The Bridge's southern terminus and its Canadian port of entry are within the City's boundaries. There is no direct provincial highway connection between the Bridge and Highway 401, which ends outside of City limits. Instead, traffic from Highway 401 moves through local roads starting at Highway 3/Talbot Road to access the Bridge, approximately 14 kilometers from the end of Highway 401.

31. The Bridge enters the City's northwestern corner and connects to Huron Church Road, a four-lane, arterial, municipal road that runs roughly northwest to southeast. There are two entrances to the Bridge: the primary entrance from Huron Church Road and a secondary entrance from Wyandotte Street West.

32. The municipal intersection of Huron Church Road and College Avenue is the first major intersection that Bridge traffic encounters after passing through Canadian customs:[24]

[22] *An Act to Incorporate The Canadian Transit Company*, S.C. 1921, c. 57.
[23] Ambassador Bridge "Bridge Facts": WIN00002273.
[24] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 6: WIN00000414.



33. Huron Church Road is a major artery in the City, just west of the downtown core. From the Bridge Plaza south to the 401 Highway, anyone wishing to travel between the western portions of the City and the east must cross Huron Church Road. Wyandotte Street West is lined with small businesses, primarily service and food service operations. Residential neighbourhoods are located to the north and south of this road.[25]

34. The Bridge and Huron Church Road are surrounded by residential homes, apartment buildings, restaurants, educational institutions, community centres, and businesses. In the immediate 2 km radius surrounding the Bridge, there were approximately 24,925 residents as of 2016. The University of Windsor campus is adjacent to the Bridge. Assumption College Catholic High School is located less than 1km away from the bridge on Huron Church Road. Marlborough Public School is less than 2 km away, on Tecumseh Rd. W. The Hotel-Dieu Grace Healthcare hospital is approximately 3 km away from the Bridge and Downtown Windsor less than 4 km away. The Sandwich Town neighbourhood, located west of the Bridge, represents one of the oldest settlement locations in Ontario with cultural and architectural history dating back to the 1700s.[26] The area also has a rich Indigenous history and is the traditional territory of the Three Fires Confederacy: Ojibwe/Chippewa, Potawotami, and Odawa. Many other Indigenous groups have called this area home.[27]

[25] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 6: WIN00000414.
[26] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at paras 7-8: WIN00000414.
[27] City of Windsor, “History of Sandwich”, undated WIN00002260.

35. The area surrounding the Bridge and Huron Church Road is shown below:[28]

36. Local Windsor residents commuting and accessing the businesses and services in the vicinity of the Bridge share Huron Church Road with the over 6000 trucks crossing the Bridge daily.[29]

Importance of the Bridge

37. Since it opened in 1929, the Ambassador Bridge has become a critical trade route that is vital to Windsor's businesses, including the automotive businesses that form the core of the City's economy.[30]

38. The Bridge carries the highest number of loaded truck container crossings annually. In 2020, there were over 2.6 million truck crossings over the Bridge – representing over 28% of Canada's truck

[28] WIN00002254
[29] Affidavit of Flavio Volpe, February 10, 2022 at para 11: WIN00000502.
[30] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 3: WIN00000414; Affidavit of Brian Kingston, February 10, 2022 at para 4: WIN00000502.

crossings.[31] The Bridge handles over $390 million of trade/day, representing 26% of the country's exports and 33% imports by road.[32] Nearly half of imports and exports transitioning through the Bridge are automotive vehicles and parts, machinery and equipment, plastics and electronics.[33]

39. Local automotive businesses operate on just-in-time delivery principles. Just-in-time delivery requires raw materials, components, and parts to arrive as production is scheduled to begin, but no sooner. Automotive production is sequenced, and delivery of parts and components is precisely timed within the sequenced production.[34] In Windsor, this production approach relies on trans-border shipping of parts and supplies across the Bridge.[35]

40. The Bridge also serves as an important travel corridor for Windsor's residents, many of whom rely on the bridge to access work, education, entertainment, services, and family members who live in Detroit and the surrounding region.[36]

b) The Detroit-Windsor Tunnel

41. The Detroit-Windsor Tunnel (the "**Tunnel**"), opened in 1930, is a tunnel under the Detroit River connecting Windsor and Detroit. The Tunnel is one of the busiest crossings between the United States and Canada, with over 4 million vehicle movements per year in 2019, most of which were cars.[37] Large commercial trucks are not permitted due to the Tunnel's height and weight restrictions (386 cm and 65,770 kg respectively).[38]

42. The Tunnel is owned by the Windsor Detroit Tunnel Corporation ("**WDTC**") on the Canadian side, and operated by Windsor Detroit Borderlink Limited ("**WDBL**"). The WDTC is a wholly-owned subsidiary

[31] Large commercial trucks must use the Bridge and not the Detroit-Windsor Tunnel due to the tunnel's its height and weight restrictions described below. See Transport Canada, "Transportation in Canada 2020: Statistical Addendum", September 25, 2020: WIN00002232.
[32] Standing Committee on Transport, Infrastructure and Communities, "Minister's Mandate Letter, February 17, 2022" at s. 16: WIN00002264.
[33] Standing Committee on Transport, Infrastructure and Communities, "Minister's Mandate Letter, February 17, 2022" at s. 16: WIN00002264.
[34] Affidavit of Flavio Volpe sworn February 10, 2022 at paras 16-17: WIN00000502.
[35] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 4: WIN00000414.
[36] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 5: WIN00000414.
[37] Note that cars/other vehicle traffic decreased significantly over the COVID-19 pandemic. See Transport Canada, "Transportation in Canada 2020: Statistical Addendum", September 25, 2020: WIN00002232.
[38] Windsor Detroit Tunnel, "Tunnel Info": WIN00002269.

of the Corporation of the City of Windsor. The City is the sole shareholder in the WDTC. The WDTC operates with a separate Board of Directors and does not have direct involvement with City Council.[39]

43. The U.S. side of the Tunnel is owned by the City of Detroit and is leased to Detroit-Windsor Tunnel Company LLC.

44. The Tunnel is located in the northern part of the City, east of the Ambassador Bridge. The Canadian terminus of the Tunnel is located in the area of Wyandotte Street East (to the south), Park Street West (to the north), Ouellette Avenue (to the West) and Windsor Avenue (to the east). The approaching roadways to the Tunnel are municipal roadways within the City's jurisdiction.

c) Detroit River Rail Tunnel

45. The Detroit River Rail Tunnel ("**Rail Tunnel**"), also known as the Michigan Central Railway Tunnel, is a railroad tunnel under the Detroit River connecting Detroit with Windsor. Canadian Pacific Rail took full ownership of the Rail Tunnel in 2020.[40]

46. The Canadian entrance to the Rail Tunnel is located south of Wyandotte Street West between Cameron and Wellington Avenues in Windsor. In the U.S. the Rail Tunnel entrance is located near Rosa Parks Blvd., south of Vermont and Porter Streets in Detroit.

d) Detroit-Windsor Truck Ferry

47. The Detroit-Windsor Truck Ferry crosses the Detroit River between Windsor and Michigan. The ferry service only transports trucks and is the primary crossing for hazardous materials (which have been prohibited from the Bridge and Tunnel).[41]

e) The Future Gordie Howe International Bridge

48. The Gordie Howe International Bridge will be a new, six-lane bridge across the Detroit River between Windsor and Detroit to provide an additional crossing option at one of the busiest Canada-U.S.

[39] City of Windsor, "Windsor-Detroit Tunnel Corporation Mandate" November 2014: WIN00002247. For the current membership of the WDTC, see City of Windsor, "Windsor-Detroit Tunnel Corporation Mandate": WIN00002263.
[40] Canadian Pacific, "CP completes acquisition of Detroit River Rail Tunnel", December 22, 20220: WIN00002262.
[41] Detroit-Windsor Truck Ferry: WIN00002266.

commercial border crossings. This bridge is currently under construction and is expected to be completed in 2024.

49. The Windsor-Detroit Bridge Authority ("**WDBA**") is a not-for-profit Crown corporation established by Letters Patent pursuant to subsection 29(1) of the *International Bridges and Tunnels Act*.[42] The WDBA reports to Parliament through the Minister of Infrastructure and Communities. The WDBA is wholly owned by the Government of Canada but operates independently from government. The WDBA is responsible for oversight during construction and will be responsible for the operation of the Gordie Howe International Bridge once it is complete.[43]

50. The Gordie Howe International Bridge will be located in the west side of the City, southwest of the Ambassador Bridge. The Canadian port of entry will be in the area of the E.C. Row Expressway (Highway 401) and Ojibway Parkway to the east, Prospect Avenue and Ojibway Parkway to the north, Broadway Street to the south, and the Detroit River to the west.

51. The E.C. Row Expressway (Highway 401) will be the main approaching roadway to the future Gordie Howe International Bridge. This Road is within the Province of Ontario's jurisdiction. All other immediately surrounding roadways are municipal roadways within the City of Windsor's jurisdiction.

f) Highway 401

52. Windsor/Essex is uniquely situated in Canada as the southernmost access to Ontario's 400 series highways, which connect through Windsor's border crossings directly to U.S. Interstate highway I-75. Highway 401 is under the jurisdiction and control of the MTO and patrolled by the OPP.[44]

53. Highway 401 is a Core Route (key interprovincial and international corridor route) of the National Highway System of Canada, a federal designation of strategic and nationally important routes that support inter-provincial and international trade.[45]

[42] PC 2017-1053, (2017) C Gaz I, Vol 155, No 27: WIN00002268.
[43] Infrastructure Canada, "Infrastructure Canada and the Windsor-Detroit Bridge Authority", last modified December 6, 2021: WIN00002258.
[44] *Municipal Act, 2001,* S.O. 2001, c. 25, ss. 24-25; *Public Transportation and Highway Improvement Act*, RSO 1990, c P.5, ss. 2, 18; *Police Services Act,* R.S.O. 1990, c. P.15, s. 19.
[45] Transport Canada, "National Highway System", modified August 8, 2022: WIN00002259.

V. City Authority, Governance and Structure

54. The City is a single-tier municipality under the *Municipal Act, 2001*, S.O. 2001, c. 25, geographically located within (but administratively independent of) the County of Essex. As a single-tier municipality, Windsor assumes all municipal responsibilities set out under the *Municipal Act* and other Provincial legislation.[46] The *Municipal Act* provides the primary legislative framework for the municipality and governs the powers, duties, internal organization and structure of municipalities in Ontario.

a) City Jurisdiction and By-laws

55. The City has broad authority to govern its affairs and to respond to municipal issues as it considers appropriate.[47] Among the powers granted to the City through the *Municipal Act, 2001* are the powers to pass by-laws respecting:

- Governance structure of the municipality and its local boards;
- Public assets of the municipality;
- Health, safety, and well-being of persons;
- Protection of persons and property;
- Economic, social, and environmental well-being of the municipality; [48]
- Highways under municipal jurisdiction;[49]
- Certain passenger transportation systems (transit);[50] and
- Parking.[51]

56. The City also derives authority from other Provincial legislation. For example, the *Highway Traffic Act*, R.S.O. 1990, c. H.8, provides that municipalities may pass by-laws to permit the use of municipal highways by vehicles in excess of the limits set out in that Act.[52]

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[46] For example, as noted below, the *Emergency Management and Civil Protection Act*, RSO 1990, c. E.9 requires every municipality to have an emergency plan (s. 3), and the *Police Services Act,* RSO 1990, c. P.15 requires municipalities to provide "adequate and effective police services" in accordance with the municipality's needs (s. 4).
[47] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 8.
[48] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 10.
[49] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 27.
[50] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 69.
[51] *Municipal Act, 2001,* S.O. 2001, c. 25, ss. 100 – 101.
[52] *Highway Traffic Act,* RSO 1990, c. H.8, s. 110.

57. Protesters contravened the following City By-laws during the Blockade:[53]

- By-Law 9148 (Traffic By-Law),[54]
- By-Law 233-2001 (Vehicle Idling By-Law),[55]
- By-Law 25-2010 (Protection of Highways By-Law),[56]
- By-Law 6716 (Noise By-Law);[57] and
- By-Law 9023 (Parking By-Law).[58]

58. The City has the authority to ensure compliance with its by-laws pursuant to its powers under the *Municipal Act, 2001.* WPS police officers are also empowered to enforce the City's By-Laws pursuant to subsection 42(1) of the *Police Services Act.*[59] The Traffic By-law specifically empowers police officers to direct traffic in the event of enumerated events including an emergency.[60]

b) City Council

59. The City is governed by an elected Council made up of the Mayor and 10 councillors.[61] The Council directs the business of the City and passes by-laws or resolutions, as appropriate, for decisions adopted by Council.

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[53] Supplemental Affidavit of Jason Bellaire, February 11, 2022 at para 2: WIN00000412; Further Supplemental Affidavit of Jason Bellaire, February 17, 2022 at paras 11, 22 and 42: WIN00000925.
[54] City of Windsor, by-law No 9148: A by-law to Regulate Traffic within the Limits of the City of Windsor (28 September 1987: WIN00001691 [*By-law 9148: Traffic*]; Supplementary Affidavit of Jason Ward Reynar, February 11, 2022, Exhibit C: WIN00000414.
[55] City of Windsor, by-law No 233-2001: A by-law to Prohibit Excessive Idling of Vehicles and Boats (18 June 2001): Supplementary Affidavit of Jason Ward Reynar, February 11, 2022, exhibit D: WIN00000414.
[56] City of Windsor, by-law No 25-2010: A by-law to Provide for the Protection of Highways in Windsor (1 February 2010, amended 4 May 2020): Supplementary Affidavit of Jason Ward Reynar, February 11, 2022, exhibit E: WIN00000414.
[57] City of Windsor, by-law No. 6716: A by-law Respecting the Emission of Sounds (22 September 1980): >; Supplementary Affidavit of Jason Ward Reynar, February 11, 2022, Exhibit F: WIN00000414.
[58] City of Windsor, by-law No. 9023: A by-law to Regulate Vehicular Parking Within the Limits of the City of Windsor on Municipal Streets, Municipal Parking Lots and Private Properties: Second Supplemental Affidavit of Jason Ward Reynar, February 17, 2022, Exhibit H: WIN00000925.
[59] *Police Services Act,* R.S.O. 1990, c. P.15, s. 42(1)(h).
[60] City of Windsor, by-law No 9148: A by-law to Regulate Traffic within the Limits of the City of Windsor (28 September 1987) at s. 3: WIN00001691.
[61] *Municipal Act, 2001*, S.O. 2001, c. 25, s. 5, s. 217; *Municipal Elections Act, 1996*, SO 1996, c 32, Sch., s. 3.

60. Windsor is divided into ten wards, with one councillor elected in each ward.[62] The Bridge is located at the north end of Ward 2.[63] Huron Church Road, which leads to the Ambassador Bridge, also passes through Ward 10. In January and February 2022, Fabio Costante was the councillor for Ward 2, and Jim Morrison was the councillor for Ward 10. Councillors serve on Council on a part-time basis.

61. As required by the *Municipal Act, 2001*, the powers of the City including its powers to pass by-laws are exercised by City Council.[64] Council's roles include:[65]

- to represent the public and consider the well-being and interests of the City;
- to determine which services the municipality provides;
- to maintain the financial integrity of the City;
- to oversee the administrative functions as carried out by appointed officials within delegated authority and the policies adopted by Council; and
- to carry out the duties of Council under the *Municipal Act, 2001* and other Acts, including the *Police Services Act* and the *Emergency Management and Civil Protection Act*, as noted below.

62. The Mayor is the head of council and the Chief Executive Officer (CEO) of the Corporation of the City of Windsor.[66] The Mayor of Windsor is Drew Dilkens. He was first elected as Mayor in December 2014.[67] The Mayor serves in his role on a full-time basis.

63. In addition to his roles and responsibilities as a member of Council, the Mayor's roles include:[68]

- to preside over Council meetings;
- to province leadership to Council including to provide information and recommendations to Council;
- to represent the municipality at official functions and serve as the Council's spokesperson; and

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[62] City of Windsor, by-law No. 133-2009: "A By-law to Redivide the Wards in the City of Windsor" (24 August 2009): WIN00002228; City of Windsor, "2022 Municipal Election Ward Boundaries, Voting Locations & Voting Subdivisions", 29 April 2022: WIN00002241.
[63] City of Windsor, "2022 Municipal Election Ward Boundaries, Voting Locations & Voting Subdivisions", 29 April 2022: WIN00002241.
[64] *Municipal Act, 2001,* S.O. 2001, c. 25, ss. 5(1), s 10; City of Windsor, by-law No 98-2011, "A by-law to Provide Rules Governing the Proceedings of Windsor City Council Meetings and its Committees and the Conduct of its Members" (7 June 2011), section 23.1(a): WIN00002246 [*By-Law 98-2011: Procedure*].
[65] Roles and responsibilities of City Council are found in the *Municipal Act, 2001,* S.O. 2001, c. 25, s. 224 and By-Law 98-2011: Procedure, s. 23.1, Schedule A to the Code of Conduct.
[66] *Municipal Act, 2001,* S.O. 2001, c. 25, ss. 226, 226.1
[67] City of Windsor, "Mayor and City Council": WIN00002267.
[68] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 225 and s. 226.1; By-Law 98-2011: Procedure, s. 24.1: WIN00002246.

- to act as Council's representative when dealing with other levels of government, their agencies and the private sector.

64. The Mayor's office is overseen by a Chief of Staff. In 2022, the Chief of Staff was Andrew Telizsewsky. The Mayor's office is also served by a group of staff members including communications and social media professionals.

65. Regular meetings of council generally take place twice per month in accordance with the City's Procedure By-law 98-2011 and an approved calendar/schedule.[69] The Mayor may summon a special meeting of Council at any time, within a specified time period, as well as when requested to do so in writing by a majority of Council Members.[70]

66. All or a portion of a Council meeting may be closed to the public where deemed appropriate. The only matters permitted to be considered "in camera" are listed at section 239 of the *Municipal Act, 2001* and include the security of the property of the municipality, litigation or potential litigation affecting the municipality, and advice that is subject to solicitor client privilege.[71]

c) City Staff and the Corporate Leadership Team

67. The Chief Administrative Officer ("**CAO**") of the City is appointed by by-law and is responsible for exercising general control in management of the affairs of the City for the purpose of ensuring the efficient and effective operation of the City.[72] The CAO reports to City Council.[73]

68. In February 2022, the CAO was Jason Ward Reynar. Council has delegated certain responsibilities to the CAO for the administration of the affairs of the City in accordance with the by-laws adopted. Among the CAO's roles and responsibilities are:[74]

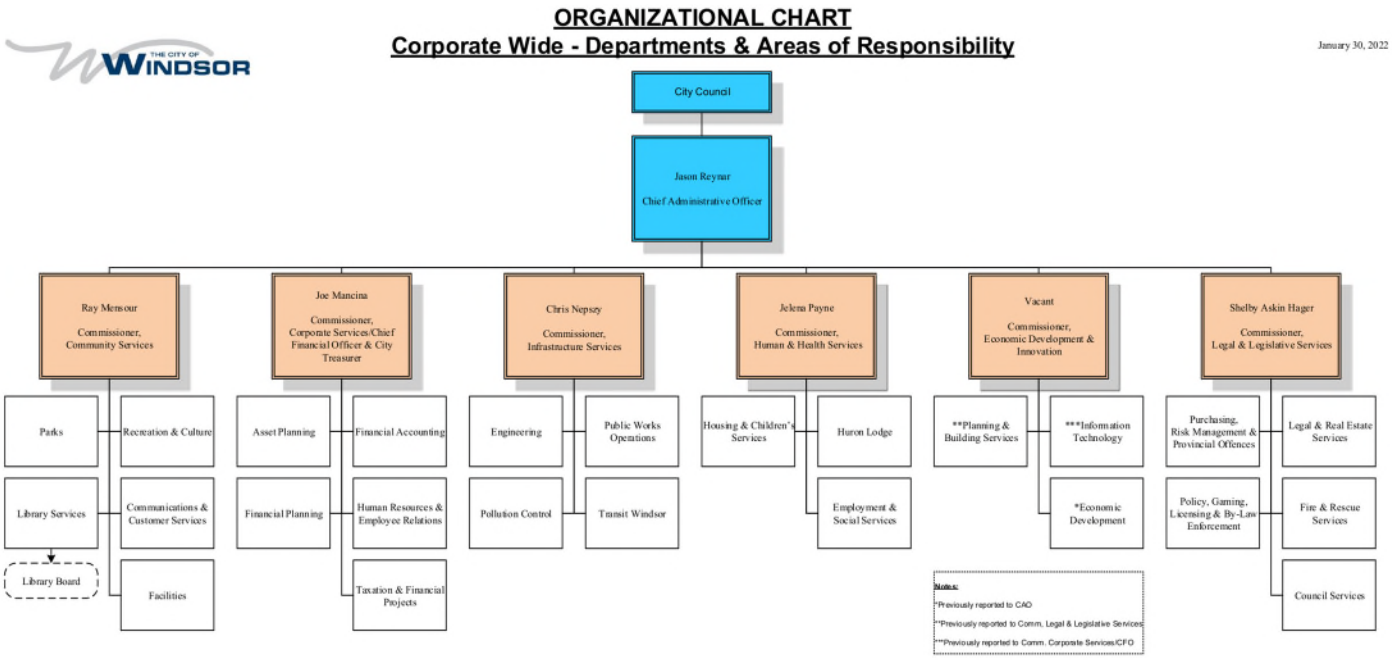
- the management of human, fiscal, and physical resources of the City;
- to provide leadership and direction to all departments, ensuring the corporate coordination of the activities of all departments and the efficient and consistent implementation of policies and decisions of City Council; and

[69] By-Law 98-2011: Procedure, s. 3.2(b): WIN00002246.
[70] By-Law 98-2011: Procedure, s. 3.3: WIN00002246.
[71] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 239; By-Law 98-2011: Procedure, s. 3.4: WIN00002246.
[72] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 229; By-Law 98-2011: Procedure, s. 25.1: WIN00002246; City of Windsor, by-law No 218-2002: "A by-law to Establish the Position of the Chief Administrative Officer for the Corporation of the City of Windsor" (12 August 2002): WIN00002293 [*By-law 218-2002: CAO*].
[73] City of Windsor, "Corporate Wide – Departments & Areas of Responsibility" (January 30, 2022), WIN00002245
[74] By-law 218-2002: CAO, s. 4.

- to develop and maintain communication linkages with officials, groups, agencies, other jurisdictions and stakeholders as is necessary to carry out the responsibilities of the office of the Chief Administrative Officer and promote the interests of the City.

69. The CAO leads city staff who implement Council's decisions, undertake research and provide advice to council, and carry out other duties under the *Municipal Act, 2001* or any other Act.[75]

70. Six Commissioners, each overseeing a City Department, report to the CAO and share oversight of administration with the CAO. Each Commissioner is a member of Windsor's Corporate Leadership Team ("**CLT**"). The City's organizational chart, reflecting its Departments and leadership structure as of February 2022, is below:[76]



71. The City's Emergency Response Plan, discussed below, provides that each of the Commissioners is a member of the CCG for emergency response.[77] During the response to the Blockade, the entire CLT was kept apprised of the situation through the CCG and through regular updates. Given the nature of the Blockade and the needs of the WPS-led response, Infrastructure Services and Legal & Legislative Services were particularly engaged in the City's response.

[75] *Municipal Act, 2001,* S.O. 2001, c. 25, s. 227
[76] WIN00002245.
[77] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 5.1: WIN00001054.

72. In February 2022, the Commissioner, Infrastructure Services was Christopher Nepszy. The Commissioner of Infrastructure Services oversees:

- Engineering: Among other responsibilities, Engineering administers by-laws and policies relevant to all works on the public right-of way and issuance of permits for works in the public right of way. It manages the City's Geographic Information Systems and provides CAD and GIS support for the various City Departments and Divisions;
- Public Works Operations: Public Works has the responsibility to maintain the municipal infrastructure located on the public right-of-way and provide services to the public such as road and sewer maintenance, construction inspection, traffic signal and sing maintenance, fleet maintenance, and parking enforcement. The only By-Law enforced by Parking Enforcement is the City's parking By-Law 9023.[78] City parking enforcement addresses parking on municipal roadways and municipal properties;
- Pollution Control; and
- Transit Windsor.

73. The City delegates parking enforcement to a contractor, Commissionaires Ottawa – Windsor Division. On February 9, 2022, during the Blockade, a parking enforcement section supervisor reported an incident where protesters were being increasingly aggressive towards her, spitting towards her, such that she felt unsafe. She was escorted to her vehicle by WPS where she found spit all over the driver's side window.[79] Following this incident, the decision was made to pull City parking enforcement from the area of the Blockade. WPS, who remained in the area, are also empowered to enforce the City's Parking By-Law pursuant to subsection 43(1) of the *Police Services Act.*[80] City parking enforcement returned to the area of the Blockade on February 11 and 12, 2022, ensuring that parking enforcement worked in pairs with a WPS escort. On February 11, 2022, City parking enforcement issued fourteen (14) tickets for parking infractions.[81] On February 12, 2022, City parking enforcement issued nineteen (19) tickets for parking infractions.[82] Between City parking enforcement and the Windsor Police, on February 12, 2022, twenty-eight (28) tickets were issued for parking infractions.[83]

74. Phong Nguy, Manager of Maintenance, Field and Contracts within the Public Works Operations department, was present at the Emergency Operations Centre from time to time during the Blockade, and assisted WPS with sourcing required resources including vehicles and jersey barriers.

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[78] Second Supplemental Affidavit of Jason Ward Reynar, February 17, 2022, Exhibit H: WIN00000925
[79] WIN00001584.
[80] *Police Services Act,* R.S.O. 1990, c. P.15, ss. 42(1)(h).
[81] WIN00001500.
[82] WIN00001501.
[83] Further Supplemental Affidavit of Jason Bellaire, February 17, 2022 at para. 22: WIN00000925.

75. In February 2022, the Commissioner of Legal & Legislative Services was Shelby Askin Hager. The Commissioner of Legal & Legislative Services oversees the following divisions:

- Council Services: Council Services administers the City's legislative process including Elections, Council and Committee meetings, and the maintenance of public records;
- Fire & Rescue Services: Windsor Fire and Rescue Services ("**WFRS**") is a full-time fire department[84] employing 305 personnel. The Fire Chief is Stephen Laforet. As Fire Chief, Chief Laforet is responsible for the administration and management of Windsor's Fire Service and reports directly to Council.[85] In addition to emergency services, fire inspection and investigation services, public education and fire safety programs, the department is also responsible for the Community Emergency Management Program described below;
- Legal: The Legal Department is composed of four divisions – Legal Services and Real Estate, Risk Management Division, Provincial Offences Division, and the Purchasing Division. The Legal Services Division is responsible for providing legal advice to City Council as directed by Council and Administration; and
- Policy, Gaming, Licensing & By-Law Enforcement: This department is responsible for the administration of Corporate policies, animal control, and the regulation and licensing of various gaming activity, business, and public vehicle classes in the municipality. By-law enforcement is responsible for ensuring compliance with various approved City by-laws, including, for example, 113-2006 Smoking, 233-2001 Vehicle Idling, 6716 Noise, 250-2004 Signs, and 395-2004 Licensing. By-law enforcement is not responsible for the Windsor Parking By-law or other by-laws such as the Property Standards By-law, which require specialized expertise.

76. The decision was made not to direct City by-law enforcement officers to respond to violations of City by-laws in the vicinity of the protests for the safety of Windsor's staff. This decision was consistent with the recognition that the response to the Blockade was police-led and that, for safety reasons, by-law enforcement officers would have required a police escort in any event. WPS carried out their duty to enforce municipal by-laws as part of the police-led response.[86]

VI. Municipal Police Services in Windsor

77. The *Police Services Act* requires the City to provide "adequate and effective police services" in accordance with the City's needs and to provide the infrastructure and administration necessary for providing effective police services.[87] The City discharges this responsibility by establishing the WPS.

[84] Established pursuant to the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, ss. 2, 5.
[85] *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4, s. 6.
[86] *Police Services Act,* R.S.O. 1990, c. P.15, s. 42(1)(h); Further Supplemental Affidavit of Jason Bellaire, February 17, 2022 at paras. 11, 22 and 42: WIN00000925.
[87] *Police Services Act,* R.S.O. 1990, c. P.15, s. 4.

78. The WPS operates separately and independently from the City. While the City communicates with the WPS and collaborates wherever possible, the City does not and cannot direct or control the operations of the WPS.

79. In February 2022, the Chief of the WPS was Pamela Mizuno and the Deputy Chief of Operations was Jason Bellaire.

80. The WPS is under the jurisdiction of a five-member civilian board, the WPS Board.[88] The *Police Services Act* requires the WPS Board to consist of:

- the Mayor (or if the Mayor chooses not to be a member, another member of council appointed by Council resolution);
- one member of council appointed by resolution;
- a person appointed by Council resolution who is neither a member of council nor an employee of the City; and
- two persons appointed by the Lieutenant Governor in Council.[89]

81. City of Windsor Mayor Drew Dilkens is the chair of the WPS Board.[90] In February 2022, the other members of the board were Vice-Chair Aldo DiCarlo,[91] Councillor Rino Bortolin, Mr. Robert de Verteuil, and Ms. Denise Ghanam.

82. The WPS Board is a separate legal entity from the City and exercises its authority pursuant to the *Police Services Act*.[92] The WPS Board is responsible for the provision of adequate and effective police services in the City. The WPS Board is responsible for, among other things: appointing members of the municipal police force, appointing the chief of police and any deputy chief of police, directing the chief of police, and monitoring their performance.[93] The mandate of the WPS Board is to set policy and to maintain an adequate and efficient police service, working with the community, city council, and the police service.[94]

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[88] *Police Services Act* R.S.O. 1990, c. P.15, s. 31(2).
[89] *Police Services Act,* R.S.O. 1990, c. P.15, ss. 27(1), 27(5); Windsor Police Service, "About – Windsor Police Board": WIN00002261.
[90] Windsor Police Service, "About – Windsor Police Board": WIN00002261
[91] Mayor DiCarlo is the Mayor of Amherstburg. Since 2019, Windsor Police Service has provided policing services to the Town of Amherstburg.
[92] *Police Services Act,* R.S.O. 1990, c. P.15, s. 30.
[93] *Police Services Act,* R.S.O. 1990, c. P.15, s. 31
[94] Windsor Police Service, "About – Windsor Police Board": WIN00002261.

83. The WPS Board may give orders and directions to the Chief of Police, but not to other members of the police force, and no individual member of the WPS Board shall give orders or directions to any member of the police force.[95] The *Police Services Act* prohibits the WPS Board from directing the Chief of Police with respect to specific operational decisions or with respect to the day-to-day operation of the police force.[96]

VII. Municipal Emergency Management

84. Ontario uses a bottom-up approach to emergency response, consistent with the approach used by the federal government and other provinces.[97] This means that, generally speaking, municipalities are responsible for managing most emergencies, although they can request resources and assistance from the provincial government.

85. The *Emergency Management and Civil Protection Act* ("***EMCPA***") defines an "emergency" as "a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise." An emergency declaration is not required in order for the situation to be considered an emergency.[98]

86. Municipalities have legislated roles in the conduct and management of emergency response as set out in the *EMPCA* and its regulations. This includes requirements that every municipality shall:

- have an emergency management program including an emergency plan, training and exercises and public education;
- designate an employee or member of council as its community management program co-ordinator;
- have an emergency management program committee;
- have a municipal emergency control group; and
- establish an emergency operations centre.[99]

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[95] *Police Services Act,* R.S.O. 1990, c. P.15, s. 31(3).
[96] *Police Services Act,* R.S.O. 1990, c. P.15, s. 31(4).
[97] Public Safety Canada – Emergency Management Policy and Outreach Directorate, "An Emergency Management Framework for Canada" May 2017 (Third Edition): WIN00002230.
[98] *Emergency Management and Civil Protection Act,* RSO 1990, c E.9, s. 9(a).
[99] *Emergency Management and Civil Protection Act,* RSO 1990, c E.9, s. 2.1, 3; O. Reg. 380/04: Standards, ss 10-15.

87. In Windsor, the Fire Chief, Chief Laforet, is the Community Emergency Management Coordinator ("**CEMC**") for the City, pursuant to the Standards regulation under the *EMPCA*.[100] The CEMC is required to coordinate the development and implementation of the City's emergency management program.[101]

88. Emily Bertram, Emergency Planning Officer, supports Chief Laforet in his role as CEMC. Officer Bertram is an alternate CEMC, as are each of the two Deputy Fire Chiefs of WFRS: James Waffle (Deputy Chief of Operations) and Jonathan Wilker (Deputy Chief of Support Services). Officer Bertram also prepares Windsor's Daily Consolidated Situation Reports ("**Windsor DCSR**"), similar to the Provincial Emergency Operations Centre's DCSRs, to provide local knowledge of emergency matters on a daily or as needed basis.[102] These Windsor DCSRs are generally circulated prior to CCG meetings.

89. The City's emergency management program committee meets at least once annually as required by the EMPCA Standards to conduct an annual review of the City's emergency management program and make recommendations if necessary.[103]

90. Windsor's CCG is equivalent to the Municipal Emergency Control Group required under the *EMCPA* Standards.[104] The CCG is responsible for coordinating the provision of essential services necessary to minimize the effects of an emergency on the community and is composed of the following officials:[105]

- Mayor;
- CAO;
- Community Emergency Management Coordinator (CEMC) / Fire Chief;
- Chief of Police;
- Essex-Windsor Emergency Medical Services (EMS) Chief; and
- All six City Commissioners.[106]

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[100] O. Reg. 380/04: Standards, s. 10(1); Windsor Fire and Rescue Services, "Emergency Preparedness": WIN00002272.
[101] O. Reg. 380/04: Standards, s. 10(3); Windsor Fire and Rescue Services, "Emergency Preparedness": WIN00002272.
[102] See, for example: WIN00002222.
[103] O. Reg. 380/04: Standards, s. 11(6); City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 1.3: WIN00001054.
[104] O. Reg. 380/04: Standards, s. 12
[105] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 5.1: WIN00001054.
[106] Note: The City's corporate structure was recently updated, such that the following roles on the CCG have been assumed by the Commissioner indicated in brackets: Corporate Leader of Parks, Recreation, Culture and

91. Windsor has established an EOC as required by the EMCPA Standards.[107] The EOC is a central, physical location attached to a fire hall where emergency response can be coordinated.[108]

a) City of Windsor Emergency Response Plan

92. The City of Windsor's Emergency Response Plan ("**ERP**") was adopted by City Council on May 2, 2005 as By-Law 98-2005, and was updated March 2020.[109] The *EMCPA* requires that the ERP govern "the provision of necessary services during an emergency and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency." The *EMCPA* standards provide that the ERP assign responsibilities to municipal employees, by position, respecting the implementation of the ERP, and set out the procedures for notifying the members of the CCG of the emergency.

93. The City of Windsor's ERP is an "all-hazards" plan – a generally-applicable framework for emergency readiness and response that can be tailored to the particular circumstances of a given emergency.[110]

94. The executive authority for the management and mitigation of a potential or declared emergency lies with the CCG. Section 3.0 of the ERP provides that the effected department will immediately inform the CEMC of a real or potential emergency. If the CEMC notifies all CCG members of an emergency, it is the responsibility of each member to implement their own internal notification procedures notifying their required support staff.

95. Most emergencies are managed on scene. Emergencies of greater magnitude that require an emergency management response structure beyond normal daily operations use the four notification

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Facilities (Commissioner, Community Services), Chief Financial Officer / City Treasurer (Commissioner Corporate Services/Chief Financial Officer and City Treasurer), City Engineer (Commissioner, Infrastructure Services), Community Development and Health Commissioner (Commissioner, Human & Health Services), City Clerk / Licensing Commissioner (Commissioner Economic Development and Innovation), City Solicitor (Commissioner Legal & Legislative Services).

[107] O. Reg. 380/04: Standards, s. 13.

[108] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 3.2: WIN00001054.

[109] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 1.1: WIN00001054.

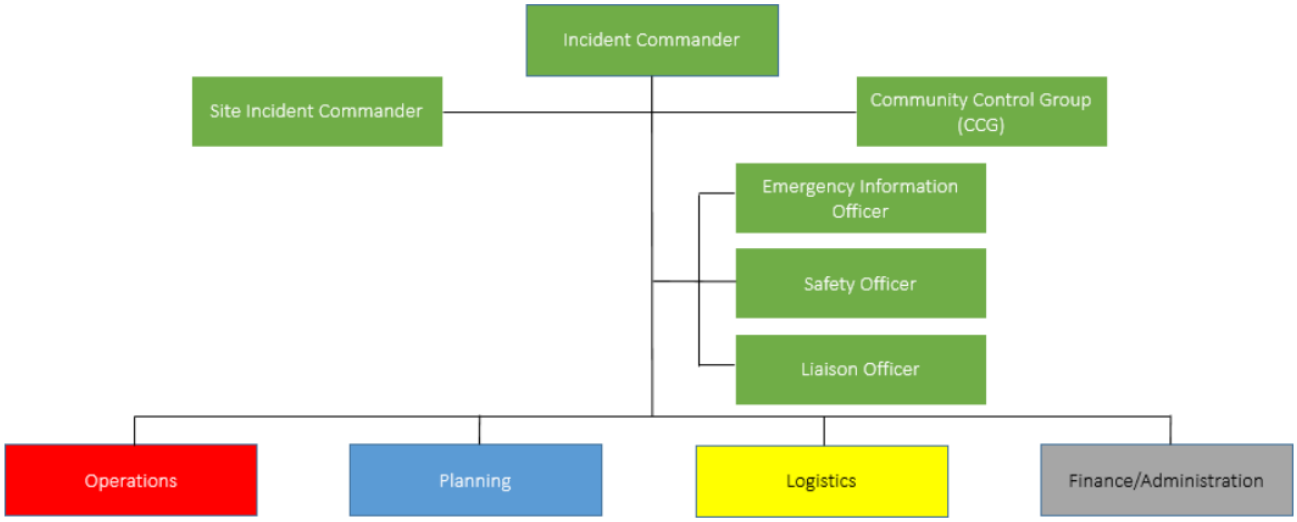
[110] Emergency management in Canada generally adopts a comprehensive all-hazards approach. See: Public Safety Canada – Emergency Management Policy and Outreach Directorate, "An Emergency Management Framework for Canada" May 2017 (Third Edition): WIN00002230.

levels at part 3.1 of the ERP. The notification levels range from “Normal Operations” to “Level 3: Full notification/activation of CCG/EOC”.

96. The City uses the Incident Management System (“**IMS**”),[111] a standardized approach to emergency management that encompasses personnel, facilities, equipment, procedures, and communications operating within a common organizational structure. The five major sections of the IMS (Management Team, Operations, Planning, Logistics, and Finance/Administration) can be expanded or contracted to meet requirements as an event progresses or digresses.

97. The IMS Organization Chart for the EOC is captured below: [112]

4.1 IMS Organization Chart for the EOC



98. Members of the CCG meet at regular intervals during the emergency. Meetings may occur by electronic conferencing.[113]

[111] City of Windsor, “Emergency Response Plan”, As Approved by CRII0/2020 By-Law 98-2005 As Amended, ss. 4.0, 4.1: WIN00001054.
[112] City of Windsor, “Emergency Response Plan”, As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 4.1: WIN00001054.
[113] City of Windsor, “Emergency Response Plan”, As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 4.2: WIN00001054.

99. During any incident, emergency responders (Fire, Police and EMS) will establish an Incident Commander ("**IC**").[114] The ERP recognizes that Command "must be established in an unmistakable fashion at the beginning of the incident and maintained until the end of the incident".

100. The type of emergency dictates the lead agency responding to the emergency; for example, police respond to a public order or safety emergency. The IC is responsible for taking overall responsibility for managing the incident and providing the overall leadership for incident response. Note that the WPS has their own separate Incident Management System that is used in a police-led emergency.

101. In many cases, the nature of the emergency makes it self-evident as to which emergency response agency should be the incident commander. In these circumstances, there is often no formal discussion or decision-making process at the CCG level or otherwise regarding who should be the incident commander. In a fire, for example, Windsor Fire and Rescue Services is evidently the agency in charge. It was apparent that the Blockade was a policing issue[115] and that WPS would serve as IC. Other agencies, including the City of Windsor's operations department and fire services, acted to support WPS's efforts.

102. Depending on the nature of the emergency and once the IC has been assigned, the CCG is to offer support to the IC with equipment, staff, and other resources as required.[116] The CCG will ensure that the rest of the community maintains municipal services. [117]

103. The roles and responsibilities of the CCG and the individual members in an emergency are set out in section 5 of Windsor's ERP.[118] For example:

- the Mayor is to provide accurate and timely information to the media and public;
- The CEMC activates and arranges the EOC and ensures the IMS is established and utilized;

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[114] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 4.3: WIN00001054.
[115] *Police Services Act*, RSO 1990, c. P.15, s. 4(2).
[116] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 4.2.1: WIN00001054.
[117] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 4.2.1: WIN00001054.
[118] Note that the City's organizational structure has been updated since the ERP was last updated. Corporate Leader of Parks, Recreation, Culture and Facilities is NOW Commissioner, Community Services; Chief Financial Officer / City Treasurer is NOW Commissioner Corporate Services/Chief Financial Officer and City Treasurer; City Engineer is now Commissioner, Infrastructure Services; Community Development and Health Commissioner is now Commissioner, Human & Health Services; City Clerk / Licensing Commissioner is now Commissioner Economic Development and Innovation; City Solicitor is now Commissioner Legal & Legislative Services.

- The Chief of Police is to ensure the protection of life, property and the provision of law and order;
- The Commissioner, Infrastructure Services (formerly the City Engineer) assists with acquiring any mapping that may be used; and
- The Commissioner, Legal and Legislative Services (formerly the City Solicitor) provides information, recommendations and clarity to the CCG regarding legal matters as they apply to the actions and decisions of the group during emergency response.

104. The EOC Support Staff includes additional personnel that may be called to respond to the EOC including City of Windsor Departments, OFMEM, OPP, local hospital representatives, Windsor Port Authority, ENWIN, liaison staff from provincial ministries, and any other officials, experts or representatives from the public or private sector as deemed necessary.[119]

105. The Federal Government has developed the Federal Emergency Response Plan ("**FERP**") to harmonize emergency response efforts by the Federal and Provincial / Territorial Governments, Non-Governmental Organizations, and the private sector. Requests for personnel or resources from the Federal Government are made through the Provincial Emergency Operations Centre ("**PEOC**").[120]

106. Assistance from other municipalities may be requested through their respective Head of Council and/or their CEMC. [121] The request shall not be deemed a request that the County or Municipality assume authority and control of the emergency. The assistance of Federal and Provincial Ministries may be requested at any time without any loss of control or authority via the OFMEM through the PEOC by the CEMC.

b) Declaration and Termination of Municipal Emergencies

107. The Mayor or Acting Mayor, as head of council, may declare that an emergency exists in the municipality under section 4 of the *EMCPA*. The ERP provides that the Mayor will make this decision in consultation with the CEMC and the CCG. [122] The Lieutenant Governor in Council or the Premier may also declare that an emergency exists in any part of Ontario under section 7.0.1 of the *EMCPA.*

[119] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 5.4: WIN00001054.
[120] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 7.3: WIN00001054.
[121] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 2.4, 7.2: WIN00001054.
[122] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 2.2: WIN00001054.

108. A municipal emergency may be terminated at any time by the head of council, City Council, or the Premier of Ontario.[123]

109. When an emergency exists or appears to be imminent, but has not yet been declared, City employees have a responsibility to take such actions under the ERP as may be necessary to help protect the lives and property of the inhabitants of the City of Windsor. The EOC may be activated for any emergency for the purposes of managing an emergency, maintaining services to the community, and supporting the emergency site.[124]

VIII. City Response to the Blockade

110. A timeline of key events is set out in the City's Timeline of Events attached as Appendix A.

111. The City has previously experienced protests or demonstrations in the area of the Bridge, but none amounted to a blockade of the Bridge and none had the extensive, negative impact of the Blockade. The Blockade was preceded by "slow roll" convoys that drove in a loop up and down Huron Church Road. While these demonstrations disrupted traffic flow, protesters were cooperative with police and the Bridge was never fully obstructed.

112. The Blockade began on February 7, 2021. The Bridge was cleared and re-opened to traffic by early in the morning on Monday, February 14, 2022. However, traffic controls and police presence remained along Huron Church Road for several weeks to ensure access to the Bridge was maintained.

113. The City engaged in a coordinated effort with police, the private sector, and the Windsor community to respond to the Blockade, restore access to the Bridge, and ensure access was maintained.

114. In late January 2022, the City was already in a Local Response Level 3 (Full notification/activation of CCG/EOC) due to the COVID-19 pandemic, and the CCG was meeting regularly in order to address matters related to the pandemic.[125]

115. WPS assumed Incident Command for the response to the Blockade. WPS kept the City closely informed of the operational situation throughout the protest.

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[123] *EMCPA* ss. 4(2) and (4); City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 2.3: WIN00001054.
[124] City of Windsor, "Emergency Response Plan", As Approved by CRII0/2020 By-Law 98-2005 As Amended, s. 2.1: WIN00001054.
[125] See: WIN00002222

116. Chief Laforet called separate, Blockade-specific CCG meetings to ensure the most appropriate CCG members and additional personnel were present to support the police-led response, manage City impacts, and streamline WPS and City communications.[126] Agencies represented at the EOC or at CCG meetings included the Canadian Border Services Agency, the OPP, the Detroit-Windsor Tunnel, and Essex-Windsor EMS.[127]

117. Chief Laforet also activated and arranged the EOC for police operations on February 7, 2022. Officer Bertram (WFRS) was embedded within the EOC and attended daily to support police operations. She coordinated responses to police requests for support, ranging from the delivery of further whiteboards to the sourcing of barricades. Officer Bertram's work-load was so significant that she slept at the EOC for over a week. Other City representatives including Phong Nguy (Public Works Operations department) attended the EOC from time to time as needed to source hard assets and barricades. Windsor Fire & Rescue Services and the City's Parks and Recreation department provided vehicles to use as temporary barriers.

118. As reflected in the Timeline, the City's role in the response to the Blockade included:

(a) holding regular meetings of the CCG specifically related to the Blockade from February 7, 2022 to March 3, 2022, to monitor the Blockade response, the ensuing road closures, and the potential threats of further disruption;[128]

(b) providing, staffing and equipping the EOC from February 7 to March 3, 2022, for police operations;

(c) logistical support for the WPS including sourcing jersey barriers, vehicles and other hard assets, and providing GIS services, maps and other resources for situational awareness, including signage related to the injunction and road closures;

(d) communications;

(e) other administrative and back-office supports for WPS;

(f) enforcing the City's parking bylaw (accompanied by Windsor Police);

[126] The first CCG meeting related to the Blockade was held the morning of February 7, 2022: WIN00002204
[127] WIN00002200, WIN00002201, WIN00002202, WIN00002203, WIN00002224, WIN00002204, WIN00002205, WIN00002206, WIN00002225, WIN00002207, WIN00002226, WIN00002208, WIN00002210, WIN00002211, WIN00002212, WIN00002213.
[128] WIN00002205.

(g) seeking and obtaining with the private sector an injunction order dated February 11, 2022 to restore access to the Bridge and enforce City by-laws,[129] and bringing an application to continue the injunction under section 440 of the *Municipal Act, 2001,* on February 18, 2022 to ensure access was maintained and ensure breaches of City by-laws ceased;[130]

(h) declaring a municipal emergency due to the emergency described as "Security Blockade and ongoing Threat of Disruption to Municipal Infrastructure, International Border Crossing, and Public Order" from February 14, 2022 to February 23, 2022; [131] and

(i) supporting local businesses impacted by the Blockade.

a) Communications with other levels of government including requests for assistance

119. As described in the Timeline, throughout the Blockade, Windsor personnel were in contact with representatives of the provincial and federal governments.

120. WFRS Chief Laforet received communications from the representatives of Emergency Management Ontario and the PEOC.[132] These communications were typically in the form of updates from one party to another as to the situation in Windsor and in the Province. In the circumstance of the Blockade, PEOC and EMO contacted WFRS Chief Laforet and Emergency Planning Officer Bertram.[133] In addition, Officer Bertram remained in contact with emergency management leaders in neighbouring municipalities as well as other border municipalities.

121. WFRS receives daily consolidated situation reports ("**DCSRs**") from the PEOC, which identified the Freedom Convoy activity in Ottawa prior to February 1, 2022,[134] and began, in or around February 7-8, 2022 to reference the possible blockade of the Bridge. The PEOC also delivered Incident Status Summary reports to WFRS and undisclosed others concerning the blockade of the Bridge. These reports also addressed other ongoing and anticipated Freedom Convoy Activity across the province, including in Ottawa, Toronto, and Sarnia.[135]

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[129] WIN00000925 (attached as Exhibit G to the Second Supplemental Affidavit of J Reynar, February 17, 2022).
[130] WIN00000913 and WIN00000918
[131] WIN00000576 and WIN00001931
[132] WIN00000515.
[133] WIN00000515.
[134] WIN00000003.
[135] WIN00000060, WIN00001627, WIN00000407, WIN00000174, WIN00000550, WIN00000058.

122. Darin Dees and Holly Robert, field officers from the Provincial Office of the Fire Marshal and Emergency Management, were in regular contact with Officer Bertram and Chief Laforet of the City and Dan Metcalfe of the County of Essex to receive status updates on activity in the City and to relay them to the PEOC.[136]

123. It was evident early in the Blockade that Windsor did not have sufficient human or physical resources to address the Blockade on its own. Advised that a formal request would be necessary in order to receive further police support, WPS Chief Pamela Mizuno wrote to Solicitor General of Ontario Hon. Sylvia Jones and to Federal Minister Bill Blair on February 9, 2022 to request resources, including 100 police officers, marked police vehicles, and tow trucks to assist with the response to the Blockade.[137] The City worked to amplify WPS' request.

124. The Mayor's Chief of Staff, Andrew Teliszewsky, was in regular contact with Ministerial staff at the provincial and federal level. Mayor Drew Dilkens communicated with the Minister of Public Safety Marco Mendicino, Minister of Transport Omar Alghabra, Jagmeet Singh, the Premier, and the Deputy Premier, including by text message. Mayor Dilkens spoke with the Prime Minister on one occasion. The majority of these interactions were directed towards keeping other levels of government up to date as to the situation in Windsor and, at times, determining what support could be available to Windsor.

125. Windsor did not make any requests regarding provincial or federal declarations of emergency, and was not consulted before Ontario and Canada declared these emergencies.

126. On March 18, 2022 Mayor Dilkens wrote to Hon. Sylvia Jones, the Solicitor General of Ontario; Hon. Marco Mendocino, the Federal Minister of Public Safety, and Hon. Bill Blair, the Minister of Emergency Preparedness, to request an incident review of the blockade of the Bridge. As discussed, below, Windsor has made further requests for funding from the federal and provincial governments to recognize the impact that this national incident had on its local businesses and local finances.

IX. Impacts of the Ambassador Bridge Blockade

127. The Blockade had an immediate, negative effect on national trade and the City of Windsor, its residents, and its businesses.

[136] WIN00000948, WIN00000869, WIN00000899, WIN00000912, WIN00000901, WIN00000902, WIN00000903, WIN00000904.
[137] WIN00001953.

128. The Minister of Transport has published remarks regarding the economic impact of the Ambassador Bridge Blockade.[138] The Minister reported that the Blockade of the Bridge diverted traffic to border crossings in Sarnia, Fort Erie and Queenston, eroding the number of hours truckers were able to drive (as per safety regulations) and adding significant costs to the industry. The disruption added to pandemic-related supply chain disruptions. Canada's automotive sector bore the brunt of the Blockade given the integrated supply chains between the U.S. and Canada and its adoption of just in time models.

129. Local industry took note of the Blockade immediately. Within the first hour of the Blockade commencing, representatives of Stellantis, one of Windsor's most significant employers and businesses, contacted the Mayor's office for an update on the situation.

130. The Blockade caused significant disruption of local businesses relying on cross-border shipping including, significantly, the automotive industry. The blockade resulted in closures, temporary layoffs, and service reductions at major automotive businesses in the area, including Ford Canada and Stellantis.[139]

131. In his February 11 affidavit in support of the injunction, the President and CEO of the Global Automakers of Canada, a national industry organization, testified that he had personally fielded dozens of calls from GAC members regarding the impact that the Blockade had having on their operations and business.[140] Businesses local to the protest were disrupted due to obstruction of roadways and people avoiding or unable to access the area.[141] Businesses near the blockade lost customers.[142] After the Blockade, FedDev Ontario established a $2.5 million West Windsor Small Business Relief Fund to assist affected companies. Invest Windsor Essex assisted to administer the program, and sixty-five Windsor businesses received relief to a maximum of $10,000, sharing in a sum of $505,000.

132. The Blockade also disrupted the lives of Windsor residents, who were unable to move freely through the community. The closure of Huron Church Road, which was necessitated by the Blockade response, left many residents in the area of the blockade isolated from the rest of the City and unable to go about their daily lives.[143] This particularly impacted residents of Ward 2, many of whom cross Huron

[138] Standing Committee on Transport, Infrastructure and Communities, "Minister's Mandate Letter, February 17, 2022" at s. 16: WIN00002264.
[139] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 10: WIN00000414.
[140] Affidavit of David Adams, February 11 at para 5: WIN00000499
[141] Affidavit of Fabio Costante, February 17, 2022 at paras 8, 13 and 14: WIN00000925; Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 12: WIN00000414.
[142] Affidavit of Fabio Costante, February 17, 2022 at paras 8, 14: WIN00000925; Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 12: WIN00000414.
[143] Affidavit of Fabio Costante, February 17, 2022, paras 10, 13: WIN00000925,

Church Rd. daily to get to work or buy groceries.[144] Residents were disturbed by the noise, including vehicle noise, shouting, and loud music.[145] Local parking was disrupted, and local schools were forced to close. [146] Residents contacted their representatives about inability to move family members with mobility issues by car,[147] the extended travel times required to get gas and groceries (and the increased cost of same),[148] and their general frustration with the ongoing interference with their lives.[149]

133. As set out in more detail in the Timeline, circulation of traffic was impacted for weeks as police continued to control access to the Bridge *via* Huron Church Rd.

134. The Blockade impacted the City's ability to deliver services, including emergency response services.[150] Chief Laforet had to re-locate fire response apparatus and crew from station #4 to ensure that the western part of the City could receive service. Local EMS services were also impacted and disrupted both during and after the Blockade.[151] City transit services had to be re-routed.[152]

135. The WPS-led response to the Blockade came at a substantial cost to the City. As the WPS is funded by the City, this cost is borne by the City, as well as the cost of the additional services the City incurred in responding to the blockade.

136. The City tracked its expenses related to the blockade by assigning a unique code to these costs in the City's internal expense tracking system. By March 15, 2022, the City estimated the financial cost to the city at approximately $5.7 million.

137. On March 15, 2022, Mayor Dilkens wrote to Hon. Chrystia Freeland, the Deputy Prime Minister and Minister of Finance, and Hon. Peter Bethlenfalvy, the Minister of Finance, to request reimbursement for the approximately $5.7 million in costs that the City incurred.[153]

138. The City has updated the estimate of costs incurred as the actual expenditures have been finalized. The costs as reported at September 23, 2022, are:

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[144] Affidavit of Fabio Costante, February 17, 2022 at para 10: WIN00000925.
[145] Affidavit of Fabio Costante, February 17, 2022 at para 9: WIN00000925.
[146] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 11: WIN00000414.
[147] WIN00002192.
[148] WIN00001485.
[149] WIN00001506.
[150] Supplementary Affidavit of Jason Ward Reynar, February 11, 2022 at para 13: WIN00000414.
[151] WIN00000096, WIN00000098, WIN00000829.
[152] Affidavit of Fabio Costante, February 17, 2022 at paras 11, 14: WIN00000925.
[153] WIN00002242, WIN00002243, WIN00002244.

Windsor Police Services[154]		
Overtime	$2,793,779.00	
Jersey Barriers	$811,334.08[155]	
Accommodations	$547,753.00	
Meals	$272,535.00	
London Police Service	$209,951.00	
Other Miscellaneous	$87,576.00	
		$4,722,948.08
Public Works Operations		
Wages, OT & Equipment	$177,323.42	
Jersey Barriers	$99,989.57[156]	
		$277,312.99
Transit Windsor		
Wages, OT, Fuel & Misc	$31,858.74	
Lost Revenue – Central 3	$10,000.00	
		$41,858.74
EMS – Land Ambulance		
Wages & Supplies		$36,282.00
Fire & Rescue Services		
Overtime & Misc.		
		$28,171.59
Legal		
Legal Services		$258,300.00
Parks & Facilities		
Tilston Armoury & EOC Facility Costs		$13,481.60
Communications		
		$4,434.70
Total Estimated Costs		**$5,382,789.70**

[154] Note that these costs include meals and accommodations for OPP and RCMP while deployed in Windsor
[155] WIN00002297. Amount incurred by City is net of HST rebates.
[156] WIN00002296. Amount incurred by the City is net of HST rebates.